

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----In the Matter of----

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to
Investigate the Proposed Tariffs
Filed by Hawaiian Electric
Company, Inc., Hawaii Electric
Light Company, Inc., and Maui
Electric Company, Limited,
Governing Distributed Generation
and Other Related Matters.

DOCKET NO. 2006-0497

ORDER NO. 23171

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed Dec. 28, 2006
At 12 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

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 PUBLIC UTILITIES COMMISSION)
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 Electric Company, Limited,)
 Governing Distributed Generation)
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Docket No. 2006-0497
Order No. 23171

By this Order, the commission opens this investigative docket to review and address: (1) the proposed tariffs (standby service and interconnection) filed by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO"); and (2) Sections 111(d)(15) and 112(b)(5) of the Public Utility Regulatory Policies Act of 1978 ("PURPA") governing interconnection standards. The commission names HECO, HELCO, MECO (collectively, the "HECO Utilities"), and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), as parties to this proceeding.

Any interested person seeking to intervene or participate in this proceeding shall file a timely motion with the commission, within ten days from the date of the last public

hearing,¹ with copies served on the HECO Utilities and the Consumer Advocate. Moreover, any motion to intervene or participate shall specifically identify the issue or issues on which the person is seeking intervenor or participant status. Motions to intervene or participate shall comply with the applicable requirements of HAR §§ 6-61-55 and 6-61-56 of the commission's Rules of Practice and Procedure.

I.

Background

By Decision and Order No. 22248, filed on January 27, 2006, in Docket No. 03-0371,² the commission "set forth certain policies and principles for the deployment of distributed generation in Hawaii and certain guidelines and requirements for distributed generation, some of which will be further defined by tariff as approved by the commission."³ On April 6, 2006, the commission: (1) granted in part and denied in part the motion for

¹The commission intends to schedule public hearings in this docket in early 2007. The deadline for interested persons to file timely motions to intervene or participate in this proceeding is ten days from the date of the last public hearing, consistent with Hawaii Administrative Rules ("HAR") § 6-61-57(1).

²The Parties in Docket No. 03-0371 are the HECO Utilities, KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), the Consumer Advocate, LIFE OF THE LAND, HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"), HESS MICROGEN, LLC, and the COUNTY OF MAUI. The COUNTY OF KAUAI is the sole Participant.

³Decision and Order No. 22248, filed on January 27, 2006, at 1.

clarification filed by the HECO Utilities; and (2) denied the HECO Utilities' motion for partial reconsideration.⁴

A.

Proposed Tariffs

Decision and Order No. 22248 sets forth certain requirements for the electric utilities, including the requirement that the utilities file proposed interconnection and standby service tariffs for the commission's review and approval.

On July 27, 2006, the HECO Utilities filed their proposed revisions to their existing interconnection tariffs,⁵ and on August 28, 2006, the HECO Utilities filed their proposed standby service tariffs.⁶

Comments on the HECO Utilities' proposed interconnection tariffs and the proposed standby service tariffs were filed by three parties: HREA, the Consumer Advocate, and the County of Maui.⁷ In its comments, the Consumer Advocate

⁴Order No. 22375, filed on April 6, 2006.

⁵HECO, HELCO, and MECO currently have in effect interconnection tariffs for distributed generation facilities operating in parallel with the utility's electric system. See In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd., Docket No. 02-0051.

⁶HELCO presently has a Standby Rider A. See Decision and Order No. 22248, at 41 - 42 n.64. For the HECO Utilities: (1) HECO proposes a standby service tariff; (2) HELCO proposes to revise its existing standby service tariff (from Rider A to Schedule SS); and (3) MECO proposes separate standby service tariffs for its Lanai, Maui, and Molokai divisions.

⁷On September 8, 2006, HREA commented on the HECO Utilities' proposed revisions to their existing interconnection tariffs. On October 3, 2006, the Consumer Advocate commented on the HECO Utilities' proposed standby service tariffs and the proposed

suggested that the commission review the reasonableness of the HECO Utilities' proposed tariffs as part of HECO's forthcoming 2007 test year rate case, In re Hawaiian Elec. Co., Inc., Docket No. 2006-0386; HELCO's pending 2006 test year rate case, In re Hawaii Elec. Light Co., Inc., Docket No. 05-0315; and MECO's forthcoming 2007 test year rate case, In re Maui Elec. Co., Ltd., Docket No. 2006-0387.

In addition, the commission received unsolicited comments on the HECO Utilities' proposed standby service tariffs from third-persons who are not parties or participants to the proceeding.⁸ The non-parties, in general, request hearings on the proposed standby charges, and the opening of a new standby rates docket so that all interested stakeholders have the opportunity to participate.

revisions to their existing interconnection tariffs. On October 4, 2006, the County of Maui commented on the HECO Utilities' proposed standby service tariffs. On November 3, 2006, the Consumer Advocate provided further comments on the HECO Utilities' proposed tariffs.

⁸For example: (1) on October 16, 2006, the United States Combined Heat and Power Association ("USCHPA") commented on the HECO Utilities' proposed standby service tariffs; and (2) on November 27, 2006, Scheibert Energy Company commented on HECO's proposed standby service tariff. The commission transmitted copies of these comments to the parties and participant in Docket No. 03-0371 with an opportunity to respond thereto. The HECO Utilities and HREA submitted responses to the unsolicited comments submitted by the non-parties. Comments from other non-parties were also submitted to the commission after November 28, 2006. See, e.g., Letter from The Gas Company, filed on December 6, 2006; and Letter from Steve Timpson, filed on December 8, 2006.

B.

PURPA Interconnection Standards

On August 8, 2006, the commission, in Docket No. 03-0371, solicited comments on whether the commission should adopt, modify, or decline to adopt in whole or in part, the interconnection standards set forth in Sections 111(d)(15) and 112(b)(5) of PURPA, as amended by the Energy Policy Act of 2005,⁹ including the extent to which the electric utilities have already met the PURPA interconnection standards. On September 8, 2006, the HECO Utilities, KIUC, and the Consumer Advocate submitted comments on the PURPA interconnection standards issue.

II.

Discussion

A.

Investigation

Hawaii Revised Statutes ("HRS") § 269-7 states, in relevant part:

- (a) The public utilities commission and each commissioner shall have the power to examine the condition of each public utility, the manner in which it is operated with reference to the safety or accommodation of the public, the safety, working hours, and wages of its employees, the fares and rates charged by it, the value of its physical property, the issuance by it of stocks and bonds, and the disposition of the proceeds thereof, the amount and disposition of its income, and all its financial transactions, its business relations with other persons, companies, or corporations, its compliance with all

⁹16 U.S.C. § 2621(d)(15). See also 16 U.S.C. § 2622(b)(5).

applicable state and federal laws and with the provisions of its franchise, charter, and articles of association, if any, its classifications, rules, regulations, practices, and service, and all matters of every nature affecting the relations and transactions between it and the public or persons or corporations . . .

.

- (c) Any investigation may be made by the commission on its own motion, and shall be made when requested by the public utility to be investigated, or by any person upon a sworn written complaint to the commission, setting forth any prima facie cause of complaint. A majority of the commission shall constitute a quorum.

HRS § 269-7(a) and (c) (emphasis added).¹⁰

Under HRS Chapter 269, the commission is vested by law with "general supervision . . . over all public utilities,"¹¹ and specifically, under HRS § 269-16, the commission is authorized to regulate the rates, fares, charges, classifications, schedules, rules and practices of a public utility and the procedures involved in its ratemaking. In short, any rate, fare, charge, classification, schedule, rule, and practice of a regulated public utility must be approved by the commission.

HRS § 269-16 states, in relevant part:

- (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility, or by two or more public utilities jointly,

¹⁰Commission investigatory authority is also set forth in HRS § 269-15 and HAR § 6-61-71.

¹¹See HRS § 269-6.

shall be just and reasonable and shall be filed with the public utilities commission .

. . . .

- (b) No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, . . .

HRS § 269-16(a) and (b) (emphasis added).

Here, the commission is unable to ignore the comments raised by interested stakeholders, expressing particular concerns with the HECO Utilities' proposed standby service tariffs, including the proposed rates and charges. Accordingly, the commission opens this investigation to review and address: (1) the HECO Utilities' proposed standby service tariffs; (2) the HECO Utilities' proposed revisions to their existing interconnection tariffs; and (3) the PURPA interconnection standards issue for the HECO Utilities.¹² As part of its investigation, the commission, at the outset, incorporates by reference the pertinent documents and comments filed in Docket No. 03-0371, governing the matters referenced above, including the HECO Utilities' proposed tariffs.¹³

¹²HECO's proposed standby service tariff is based on its cost of service study in In re Hawaiian Elec. Co., Inc., Docket No. 04-0113, HECO's pending 2005 test year rate case. HELCO's proposed standby service tariff is based on its cost of service study in In re Hawaii Elec. Light Co., Inc., Docket No. 05-0315, HELCO's pending 2006 test year rate case. MECO's proposed standby service tariffs are based on its cost of service study in In re Maui Elec. Co., Inc., Docket No. 97-0346, MECO's completed 1999 test year rate case.

¹³The United States Environmental Protection Agency ("EPA"), as part of the EPA-State Energy Efficiency and Renewable Energy

B.

Named Parties

Since the HECO Utilities' tariffs will be impacted by the outcome of this investigation, the commission will make the HECO Utilities and the Consumer Advocate parties to this docket.¹⁴

At the present time, the commission is uncertain as to the extent of the interest and willingness to participate of others, who were parties or participants in Docket No. 03-0371 or submitted unsolicited comments in Docket No. 03-0371. Rather than naming these entities as parties to this proceeding, the commission will serve them with a copy of this Order initiating this proceeding. If these entities are interested in participating in this proceeding, they may file a motion to intervene or to participate without intervention in accordance with the requirements of HAR Chapter 6-61, Subchapter 4.

C.

Preliminary Issues

At this juncture, the commission sets forth the following preliminary issues to be addressed in this proceeding:

Projects, of which Hawaii is one of the states selected for this program, will assist the commission in its review of the proposed tariffs.

¹⁴The Consumer Advocate is statutorily mandated to represent, protect, and advance the interests of all consumers of utility service and is an ex officio party to any proceeding before the commission. See HRS § 269-51; HAR § 6-61-62.

1. Whether the HECO Utilities' proposed standby service tariffs are just and reasonable and consistent in principle with the guidelines and requirements set forth in Decision and Order No. 22248, filed in Docket No. 03-0371, as clarified by Order No. 22375, filed in the same docket.

2. Whether the HECO Utilities' proposed revisions to their existing interconnection tariffs are just and reasonable and consistent in principle with the guidelines and requirements set forth in Decision and Order No. 22248, filed in Docket No. 03-0371, as clarified by Order No. 22375, filed in the same docket.

3. Whether the commission should adopt, modify, or decline to adopt in whole or in part, the PURPA interconnection standards, including the extent to which the HECO Utilities have already met the PURPA interconnection standards.

These are preliminary issues for consideration. During the development of the prehearing (or procedural) order for this proceeding, the parties (and intervenors and participants, if any) shall have the opportunity to restructure these preliminary issues, stipulate to eliminate them, or suggest other issues for resolution in this proceeding for the commission's review and consideration.

D.

Procedural Matters

Interested persons have the opportunity to file motions to intervene or participate in this proceeding.¹⁵ A motion to intervene or participate shall specifically identify the issue or issues on which the person is seeking intervenor or participant status. Motions to intervene or participate shall comply with the applicable requirements of HAR §§ 6-61-55 and 6-61-56 of the commission's Rules of Practice and Procedure.

III.

Orders

THE COMMISSION ORDERS:

1. An investigation is instituted on the commission's own motion to review and address the HECO Utilities' proposed tariffs (standby service and interconnection) and the PURPA interconnection standards issue.

2. HECO, HELCO, MECO, and the Consumer Advocate are named as parties to this proceeding.

¹⁵As noted in the attached Certificate of Service, copies of this Order are being served on: (1) the parties and participant in Docket No. 03-0371; and (2) all non-parties that submitted written comments on the proposed tariffs in Docket No. 03-0371, prior to the opening of this docket. This action, as a courtesy, provides ample opportunity for interested persons to timely move to intervene or participate in this proceeding. (Because USCHPA's letter does not list its address, a copy of this Order is being mailed to the address of its national headquarters, as listed on its website.)

3. Any interested person seeking to intervene or participate in this proceeding shall file a timely motion with the commission, within ten days from the date of the last public hearing, with copies served on the HECO Utilities and the Consumer Advocate. Any motion to intervene or participate shall specifically identify the issue or issues on which the person is seeking intervenor or participant status. Motions to intervene or participate shall comply with the applicable requirements of HAR §§ 6-61-55 and 6-61-56 of the commission's Rules of Practice and Procedure.

DONE at Honolulu, Hawaii DEC 28 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:



Michael Azama
Commission Counsel
helco new dkt.ac

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23171 upon the following persons, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such person.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

THOMAS W. WILLIAMS, JR., ESQ.
PETER Y. KIKUTA, ESQ.
GOODSILL ANDERSON QUINN & STIFEL
Alii Place, Suite 1800
1099 Alakea Street
Honolulu, HI 96813

Attorneys for HECO, HELCO, MECO

WILLIAM A. BONNET
VICE PRESIDENT
HAWAIIAN ELECTRIC COMPANY, INC.
HAWAII ELECTRIC LIGHT COMPANY, INC.
MAUI ELECTRIC COMPANY, LTD.
P. O. Box 2750
Honolulu, HI 96840-0001

DEAN MATSUURA
DIRECTOR, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, HI 96840-0001

KENT D. MORIHARA, ESQ.
MORIHARA LAU & FONG LLP
841 Bishop Street, Suite 400
Honolulu, HI 96813

Counsel for KIUC

Certificate of Service

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RANDALL J. HEE, P.E.
ACTING PRESIDENT AND CHIEF EXECUTIVE OFFICER
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe'e Street, Suite 1
Lihue, HI 96766

JOSEPH McCAWLEY
TIMOTHY BLUME
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe'e Street, Suite 1
Lihue, HI 96766

BRIAN T. MOTO, ESQ.
CORPORATION COUNSEL
CINDY Y. YOUNG, ESQ.
DEPUTY CORPORATION COUNSEL
COUNTY OF MAUI
200 S. High Street
Wailuku, HI 96793

Counsel for the COUNTY OF MAUI

KALVIN K. KOBAYASHI
ENERGY COORDINATOR
COUNTY OF MAUI
DEPARTMENT OF MANAGEMENT
200 S. High Street
Wailuku, HI 96793

WARREN S. BOLLMEIER II
PRESIDENT
HAWAII RENEWABLE ENERGY ALLIANCE
46-040 Konane Place, #3816
Kaneohe, HI 96744

JOHN CROUCH
Box 38-4276
Waikoloa, HI 96738

RICK REED
INTER ISLAND SOLAR SUPPLY
761 Ahua Street
Honolulu, HI 96819

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HENRY Q CURTIS
VICE PRESIDENT FOR CONSUMER ISSUES
LIFE OF THE LAND
76 North King Street, Suite 203
Honolulu, HI 96817

SANDRA-ANN Y.H. WONG, ESQ.
1050 Bishop Street, #514
Honolulu, HI 96813

Counsel for HESS MICROGEN, LLC

CHRISTOPHER S. COLEMAN, ESQ.
DEPUTY GENERAL COUNSEL
AMERANDA HESS CORPORATION
One Hess Plaza
Woodbridge, NJ 07095

Counsel for HESS MICROGEN, LLC

LANI D.H. NAKAZAWA, ESQ.
OFFICE OF THE COUNTY ATTORNEY
COUNTY OF KAUAI
4444 Rice Street, Suite 220
Lihue, HI 96766

Counsel for the COUNTY OF KAUAI

GLENN SATO, ENERGY COORDINATOR
c/o OFFICE OF THE COUNTY ATTORNEY
4444 Rice Street, Suite 220
Lihue, HI 96766

BRUCE HEDMAN
CHAIRMAN
UNITED STATES COMBINED HEAT & POWER ASSOCIATION
USCHPA NATIONAL HEADQUARTERS
218 D Street, SE
Washington, D.C. 20003

Certificate of Service

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TIMOTHY E. LIPMAN, PhD
CO-DIRECTOR
PACIFIC REGION COMBINED HEAT
AND POWER APPLICATION CENTER
UNIVERSITY OF CALIFORNIA
ENERGY AND RESOURCES GROUP
2105 Bancroft Way, 3rd Floor, MC 3830
Berkeley, CA 94720-3830

TODD SCHEIBERT
SCHEIBERT ENERGY COMPANY
TOPA Financial Center, 19th Floor
700 Bishop Street, Suite 1906
Honolulu, HI 96813

ED HUBENNETTE
VICE PRESIDENT
MARRIOTT HOTELS AND RESORTS
JAPAN, HAWAII & PACIFIC OFFICE
2155 Kalakaua Avenue
Suite 710
Honolulu, HI 96815

DEXTER S. KEKUA
SENIOR VICE PRESIDENT
HEIDE AND COOK, LTD.
1714 Kanakanui Street
Honolulu, HI 96819

JOSEPH P. ALLAN
ASSISTANT DIRECTOR OF ENGINEERING
HOSPITALITY PROPERTIES TRUST
400 Centre Street
Newton, MA 02458-2076

NEIL PETERSEN
PRESIDENT, BOARD OF DIRECTORS
ASSOCIATION OF APARTMENT OWNERS
MARRIOTT KAUAI RESORT AND BEACH CLUB
Kalapaki Beach
3610 Rice Street
Lihue, HI 96766

Certificate of Service

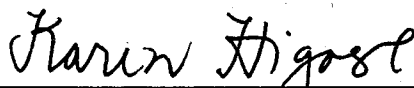
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ART GILLESPIE
PRESIDENT, BOARD OF DIRECTORS
MARRIOTT KAUAI BEACH CLUB
VACATIONS OWNERS ASSOCIATION
MARRIOTT KAUAI RESORT AND BEACH CLUB
Kalapaki Beach
3610 Rice Street
Lihue, HI 96766

KEITH YOSHIDA
VICE PRESIDENT
SALES, MARKETING & BUSINESS DEVELOPMENT
THE GAS COMPANY
P. O. Box 3000
Honolulu, HI 96802-3000

STEVE TIMPSON
820 Mililani Street, Suite 100
Honolulu, HI 96813

CHIPPER WICHMAN
CHIEF EXECUTIVE OFFICER AND DIRECTOR
NATIONAL TROPICAL BOTANICAL GARDEN
3530 Papalina Road
Kalaheo, HI 96741



Karen Higashi

DATED: DEC 28 2006